

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONNA GARCIA,

Plaintiff(s),

v.

RESURGENT CAPITAL SERVICES,
LP, et al.,

Defendant(s).

No. C11-1253 EMC (BZ)

**ORDER SCHEDULING
SETTLEMENT CONFERENCE**

The above matter was referred to Magistrate Judge Bernard Zimmerman for settlement purposes.

You are hereby notified that a settlement conference is scheduled for, **November 22, 2011, at 9:00 a.m.**, in Courtroom C, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.

It is the responsibility of counsel to ensure that whatever discovery is needed for all sides to evaluate the case for settlement purposes is completed by the date of the settlement conference. Counsel shall cooperate in providing discovery

1 informally and expeditiously.

2 Lead trial counsel shall appear at the Settlement
3 Conference with the parties. Any party who is not a natural
4 person shall be represented by the person or persons **not**
5 **directly involved** in the events which gave rise to the
6 litigation but with **full** authority to negotiate a settlement. A
7 person who needs to call another person not present before
8 accepting, rejecting or making any settlement offer does not
9 have full authority. An insured party shall appear with a
10 representative of the carrier with full authority to negotiate
11 up to the limits of coverage. The Court shall be notified
12 immediately if the carrier declines to attend. Personal
13 attendance of a party representative will **not** be excused by the
14 Court.

15 Each party shall prepare a Settlement Conference Statement,
16 which must be served on opposing counsel and lodged (not faxed)
17 with my chambers no later than **November 17, 2011**. The Statement
18 shall **not** be filed with the Clerk of the Court. The Statement
19 **may** be submitted on CD-ROM with hypertext links to exhibits.
20 Otherwise, the portion of exhibits on which the party relies
21 **shall** be highlighted. The Settlement Conference Statement shall
22 not exceed ten pages of text and twenty pages of exhibits and
23 shall include the following:

- 24 1. A brief statement of the facts of the case.
- 25 2. A brief statement of the claims and defenses
26 including, but not limited to, statutory or other grounds upon
27 which the claims are founded.
- 28 3. A summary of the proceedings to date and any pending

1 motions.

2 4. An estimate of the cost and time to be expended for
3 further discovery, pretrial and trial.

4 5. For any party seeking relief, a description of the
5 relief sought, including an itemization of damages.

6 6. The parties' position on settlement, including present
7 demands and offers and a history of past settlement discussions.
8 The Court's time can best be used to assist the parties in
9 completing their negotiations, not in starting them.

10 Accordingly, plaintiff must serve a demand in writing no later
11 than **November 11, 2011** and defendants must respond in writing no
12 later than **November 16, 2011**. If plaintiff seeks attorney's
13 fees and costs, plaintiff's counsel shall either include the fee
14 claim in the demand or make a separate, simultaneous demand for
15 fees and costs. Counsel shall be prepared at the conference to
16 provide sufficient information to defendant to enable the fee
17 claim to be evaluated for purposes of settlement. The parties
18 are urged to carefully evaluate their case before taking a
19 settlement position since extreme positions hinder the
20 settlement process.

21 Along with the Statement each party shall lodge with the
22 court a document of no more than three pages containing a **candid**
23 evaluation of the parties' likelihood of prevailing on the
24 claims and defenses, and any other information that party wishes
25 not to share with opposing counsel. The more candid the parties
26 are, the more productive the conference will be. This document
27 shall not be served on opposing counsel.

28 It is not unusual for conferences to last three or more

1 hours. Parties are encouraged to participate and frankly
2 discuss their case. Statements they make during the conference
3 will not be admissible at trial in the event the case does not
4 settle. The parties should be prepared to discuss such issues
5 as:

- 6 1. Their settlement objectives.
- 7 2. Any impediments to settlement they perceive.
- 8 3. Whether they have enough information to discuss
9 settlement. If not, what additional information is needed.
- 10 4. The possibility of a creative resolution of the dispute.

11 The parties shall notify Magistrate Judge Zimmerman's
12 chambers immediately if this case settles prior to the date set
13 for settlement conference. Counsel shall provide a copy of this
14 order to each party who will participate in the conference.

15 Dated: November 8, 2011

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18 Bernard Zimmerman
19 United States Magistrate Judge
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